

CHAPTER 3

OVERLAY ZONING DISTRICT REGULATIONS

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Section A - FP Flood Plain Overlay District

1. Applicability. Certain unincorporated areas of Clark County have been determined to be subject to flooding and as such have been designated as flood hazard areas. These flood hazard areas shall be delineated on the Official Zoning District Map(s) based upon the following sources of information:

- (a) Flood Insurance Administration Flood Hazard Boundary Maps (July 1987, as amended); [eff: 4-4-96]
- (b) Flood Plain Management Study, Selected Streams in Clark County, Ohio (April 1993, as amended); [eff: 4-4-96]
- (c) Any other relevant document or map based on sound engineering principles and accepted by the Flood Plain Administrator. [eff: 4-4-96]

These flood hazard areas shall be designated on the Official Zoning District Map(s) as Flood Plain Overlay District(s). The provision of the underlying base District(s) shall apply in full except that the provisions of this Overlay District shall supersede conflicting provisions of the base District(s). Nothing in this Section shall be less restrictive than the provisions of the Clark County Subdivision Regulations as said Regulations apply to the subdivision of lands within this Overlay District. [eff: 3-29-90]

2. The official flood hazard map shall be the current "Flood Insurance Rate Map" (FIRM). [eff: 3-29-90]
3. Principal Permitted Uses. The following open space uses shall be permitted within a Flood Plain Overlay District to the extent that they are not prohibited by any other code or ordinance and provided that they do not require structures, fill, or storage of materials or equipment.
 - (a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, and truck gardening.
 - (b) Industrial or commercial accessory uses such as loading areas, parking areas, rail sidings, and airport landing strips, if located within an underlying Zoning District in which the use is permitted.
 - (c) Residential accessory uses such as lawns, gardens, parking areas, and play areas, if located within an underlying Zoning District in which the residential use is permitted.
4. Conditionally Permitted Uses. Any uses listed as Principal Permitted Uses or Conditionally Permitted Uses in the underlying Zoning District shall be permitted within the flood fringe area only. No other uses are permitted within the boundaries of the "Floodway". [eff: 3-29-90]
5. Nothing in this Section shall be less restrictive than the provisions of the Clark County Subdivision Regulations, as said regulations apply to the subdivision of lands within this Overlay District. [eff: 3-29-90]

Section A (continued)

6. The storage or processing of materials in time of flooding which are buoyant, flammable, poisonous, explosive, or could be injurious to human, animal, or plant life shall be prohibited. [eff: 3-29-90]
7. A development permit shall be obtained prior to applying for a Zoning Certificate. [eff: 3-29-90]
8. Definitions: [eff: 3-29-90]
 - (a) "Development" means any man-made change to improve or unimprove real estate
 - (b) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
 - (c) "Flood Fringe" area is the areas outside the floodway but within the general flood prone areas as noted on the official Flood Hazard Map.

Section B - OS Open Space Overlay District

1. Applicability. Within the unincorporated area of Clark County there are certain waterbodies and other natural and/or culturally significant features that are worthy of preservation because of their contribution to the public welfare. Such features include the Little Miami River Scenic Corridor, Clarence J. Brown Reservoir, Clark Lake, and their associated wetland areas. In order to protect and preserve these features, additional requirements shall be imposed on new construction activity within these areas. These areas shall be designated on the Official Zoning District Map(s) as Open Space Overlay District(s). The provisions of the underlying base District(s) shall apply in full except that the provisions of this Overlay District shall supersede conflicting provisions of the base District(s). Where an applicant for a proposed use demonstrates to the satisfaction of the Board of Zoning Appeals that the location for such proposed use would not change the character of the land to the detriment of the public welfare, and should not therefore be included in the definition of the Open Space Overlay District, the applicant shall be exempt from the provisions of this Section. The applicant shall provide sufficient evidence for the Board of Zoning Appeals to clearly determine that the land in question should not be subject to the provisions of this Section.
2. Principal Permitted Uses. The following open space uses shall be permitted within an Open Space Overlay District to the extent that they are not prohibited by any other statute or ordinance of other governmental bodies, and provided that they do not require significant alteration of the area's hydrological and geological conditions or cause permanent preemption of land through paving or construction of buildings.
 - (a) Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, forestry, and truck gardening.
 - (b) Public utility uses such as waterworks, pumping stations, impoundment basins, and essential services.
 - (c) Residential accessory uses such as lawns, gardens, parking areas, and play areas, if located within an underlying Zoning District in which the residential use is permitted.

Section B (continued)

3. Conditionally Permitted Uses. Any other uses listed as Principal Permitted Uses or Conditionally Permitted Uses in the underlying Zoning District shall be Conditionally Permitted Uses in an Open Space Overlay District, and therefore shall be subject to approval by the Board of Zoning Appeals.
4. Performance Standards. The following performance standards shall apply to all applicable uses in an Open Space Overlay District:
 - (a) All permitted buildings and structures shall be designed so as to adequately protect the water, shoreline aesthetic characteristics, and vistas, where applicable.
 - (b) No use shall be permitted which is likely to cause pollution of surface or subsurface waters unless adequate safeguards approved by the Ohio Environmental Protection Agency are provided.
 - (c) Sewage disposal facilities and water supply facilities shall be provided in accordance with state and local health regulations. Storm drainage facilities shall be separate, not combined with sewage disposal systems.
 - (d) Adequate water supply shall be available so that the groundwater quality and quantity will not be endangered by over pumping.
 - (e) It shall be unlawful for any person, firm, or corporation to remove, fill, or use for fill, dredge, store, or excavate rock, sand, gravel, dirt, or similar material within the boundaries of the Open Space Overlay District; to fill or reclaim any land by depositing such material or by grading of existing land so as to elevate or alter the existing natural grade; or to build, alter, or repair any bulkhead or retaining wall, or to rip-rap or otherwise change the grade or shore of waterfront property without a Conditional Use granted by the Board of Zoning Appeals. Granting of such a Conditional Use is subject to other requirements and prohibitions of these Regulations and other applicable statutes or ordinances of other governmental bodies.
 - (f) Any agricultural use, as defined in these Regulations, shall be permitted when no roads or drainage canals or ditches are constructed which would have the effect of permanently impounding, obstructing, or diverting surface or subsurface waters. Nothing in this Section shall be construed as prohibiting the construction of irrigation ditches, temporary canals, plowing of land, and similar uses which are ordinarily a normal part of agricultural operations unless undertaken for the sole or predominant purpose of impounding or obstructing surface waters; nor shall this Section be construed as prohibiting the construction of temporary roads and drainage canals incidental thereto, which roads are constructed solely for inspecting, harvesting, or planting forestry or agricultural crops, when such roads are ordinary and incidental to a forestry or agricultural operation.
 - (g) No part of this Section shall be construed to prevent the doing of any act necessary to prevent the harm to or destruction of real or personal property as a result of a present emergency such as fire, infestation by insects or other pests, or flood hazards resulting from heavy rains or winds, when the property is in imminent peril and the necessity of obtaining an appeal, Variance, or Conditional Use is impractical and would cause undue hardship in the protection of the property.

Section B (continued)

- (h) The requirements of this Section shall not be construed to govern to normal and customary grading in the area of an existing or newly constructed building or structure, or the grading of a driveway serving such building or structure. Such grading and earth moving shall be approved by the Building Inspector at the time of issuance of the Building Permit, providing that a plan showing proper drainage and protection of adjoining property has been submitted.
- (i) Nothing in this Section shall be construed as prohibiting ordinary gardening activities in lawn or garden areas.
- (j) Non-conformities may be continued; any addition or modification, however, to an existing and legal Non-conforming Use shall be in conformance with the requirements of this Overlay District.